

REMARKS

Claims 1, 8, 9, 19, 25-27, 33-37, 43-45, 51, 52, 66-68, 74-76, 82, 83, 94, 100, 101, 112, 118-120 and 126-128 are pending in the application. In the Office Action, claims 94, 100, 101, 112, 118-120 and 126-128 are allowed. The remaining claims stand rejected or objected to. Applicant responds to the Office Action as set forth below.

Claim Objections

Claims 1, 19, 27, 35, 45, 66, 76, 94, 112, 120 and 128 are objected to. In the Office Action, the use of the phrase, “Point-to-Point Protocol link having endpoints having an Internet protocol address,” is suggested to be used in the claims. In addition, claims 36, 37, 43 and 44 are objected to for a number of informalities.

By this amendment, each of claims 1, 19, 27, 35, 45, 66, 76, 94, 112, 120 and 128 has been amended with inclusion of the suggested phrase or its equivalent. Claims 36, 37, 43 and 44 have also been amended to obviate the objections. Accordingly, Applicant respectfully requests the objections of these claims be withdrawn.

Rejections of Claims under 35 U.S.C. § 101

Claims 1, 7, 8, 19, 25-27, 33-37, 43-45, 51, 52, 54, 55, 66-68, 74-76, 82 and 83 are rejected under 35 U.S.C. § 101 as directed to non-statutory subject matter.

Applicant respectfully traverses the rejections.

Under 35 U.S.C. § 101, there are four statutory classes, namely, machine, article of manufacture, process and composition of matter classified as patentable subject matters. As acknowledged by the Examiner, Applicant’s claims all fall within the proper classes (page 3, ¶ 9

of the Office Action). Nevertheless, the Examiner contended that claiming “computer code” in the abstract in Applicant’s claims runs into the “abstract idea” of the judicial exception.

Applicant respectfully submits that contrary to the contention, Applicant’s claims do not merely claim “computer code” in the abstract. In the preamble of each of Applicant’s claims, among other things, it recites either a method (e.g., claim 1), a device (e.g., claim 76), or a computer readable medium (e.g., claim 120), all are within the proper statutory classes. In determining the eligibility patent protection under 35 U.S.C. § 101, the claims must be considered as a whole. *Diamond v. Diehr*, 450 U.S. at 188-89, 209 USPQ at 9. See also *In re Sarkar*, 588 F.2d 1330, 1333, 200 USPQ 132, 137 (CCPA 1978). Here, read as a whole, in each claim, the properly recited statutory class in the preamble coupled with the computer code in the claim body is statutory. There is ample authority support in this respect. For example, in MPEP § 2106.IV.B.1.(a), it is stated that “a claimed computer-readable medium encoded with a computer program is a computer element which defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program’s functionality to be realized, and is thus statutory.” The same rationale applies to the other statutory classes.

As to the contention that Applicant’s claims do not recite subject matter that produces useful and tangible results and thereby render the claims unpatentable under 35 U.S.C. § 101, it needs to point out that the law is also well settled in this respect. Under existent law, a disembodied mathematical concept is not patentable. However, if a claim claims subject matter within the statutory classes which produces a useful, concrete, and tangible result, the claim is patentable. *In re Alappat*, 33 F.3d 1526, 31 USPQ,2d 1545 (Fed. Cir. 1994). This is true irrespective of whether the aforementioned result is a product of manipulation of any mathematical algorithm. Here, Applicant’s claims are directed to subject matters in the field of communications. Read as a whole, each claim claims subject matter which produces concrete, useful and tangible results in accordance with existent law, specifically in Applicant’s case, allowing the users to communicate with each other. Such results are not mere pure manipulation of mathematical concepts.

In the Office Action, it is suggested that the claims can be written into means-plus-function form to meet the statutory requirements. Applicant appreciates the Examiner's suggestions. However, Applicant submits that the claims as presented are statutory. Nevertheless, Applicant adds new claims 129-131 which are recited in means-plus-function form for another reason, specifically as another way of claiming the apparatus aspect of the invention. Entry of claims 129-131 is respectfully requested.

Conclusion

In light of the above amendment and remarks, all claims remaining in the application, i.e., claims 1, 8, 9, 19, 25-27, 33-37, 43-52, 66-68, 74-76, 82-83, 94, 100, 101, 112, 118-120, and 126-128, and new claims 129-131, are submitted to be patentable over the prior art. Applicants believe the application is in condition for allowance. Reconsideration and an early allowance are respectfully requested.

In the event of any fees that may be due or any overpayments that may be associated with this response, please charge or deposit the amount to Deposit Account No. 17-0026.

Respectfully submitted,

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